

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CECILIA TELLEZ SOTO,

Plaintiff,

**RISK MANAGEMENT DIVISION
OF THE STATE OF NEW MEXICO,**

Intervenor,

vs.

No. Civ. 2006-738 WFD/LFG

RUBEN GALVAN,

Defendant.

PLAINTIFF'S ANSWER TO COMPLAINT IN INTERVENTION
FOR DECLARATORY JUDGMENT

Cecilia Tellez-Soto, by and through her counsel, HOLT BABINGTON MYNATT, P.C. (Blaine T. Mynatt), submits her Answer to Risk Management Division of the State of New Mexico (RMD)'s Complaint in Intervention.

1. Plaintiff admits the allegations in paragraphs 1, 2, 3, 5, 6, and 14 of the Complaint.
2. Plaintiff denies the allegations in paragraphs 7, 8, 9, 10, 11, 12, and 13 of the Complaint.
3. Plaintiff is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 4, and therefore denies the same.
4. Any allegation not specifically admitted herein is denied.
5. Plaintiff's affirmative defense to the allegations in the Complaint is that Defendant Galvan, by his own admission, was at all pertinent times, acting within the "scope of

duties” as defined in *RMD v. McBrayer*, 129 N.M. 778, 14 P.3d 43 (Ct. App. 2000), and the New Mexico Tort Claims Act.

WHEREFORE, having fully answered, Plaintiff prays the Court dismiss RMD’s Complaint in Intervention and grant her her costs and reasonable attorney’s fees incurred in responding to RMD’s Complaint, along with such other and further relief as the Court deems appropriate.

Respectfully submitted,

HOLT BABINGTON MYNATT P.C.

By: /s/ Blaine T. Mynatt
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CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing *Answer to Complaint in Intervention* was electronically filed with the Court through the CM/ECF system, which caused the following to be served by electronic means on this 1st day of June, 2007:

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/s/ Blaine T. Mynatt
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